

Kershner v. Kolison
Motion for Preliminary Injunction

Decl. Adam Steinbaugh

EXHIBIT 22



February 3, 2022

Dear President Kolison,

The Academic Freedom Alliance (AFA) is a coalition of faculty members from across the country and across the ideological spectrum who are committed to upholding the principles of academic freedom and professorial free speech.

We are concerned about SUNY Fredonia's announcement that the constitutionally protected speech of Professor Stephen Kershner is "being reviewed." As you know, Professor Kershner is a distinguished teaching professor of philosophy who does research on applied ethics. He has written scholarship on a wide variety of highly controversial topics, including "adult-child sex." This includes a [scholarly monograph](#) dedicated to that subject published by an academic press. He recently discussed that work on a [YouTube channel](#) dedicated to philosophical conversations, which led to [public notice](#) and [controversy](#). In response, you issued an [announcement](#) that "the matter is being reviewed."

I write on behalf of the Academic Freedom Alliance to emphasize that Professor Kershner's scholarly research and teaching on these topics is fully protected by principles of academic freedom and his public discussion of his ideas on these issues is protected by principles of freedom of speech. There is, quite simply, nothing for the university to review under these circumstances. The university's obligation in the face of this controversy is to provide a forum in which ideas, however extreme or misguided they may be or seem to be, can be articulated, criticized, and fairly debated. A member of your faculty under such public scrutiny is likely to be targeted for abuse and threats, and the university's responsibility is to shelter the faculty member from that harassment and not add to it.

SUNY Fredonia has [adopted as official university policy](#) the principles of academic freedom advanced by the American Association of University Professors in the 1940 Statement of Principles on Academic Freedom and Tenure. That policy includes the "full freedom, within the law, of inquiry, teaching and research." That commitment is separately included in [Article 9](#) of the university's agreement with the United University Professors. It is also well established that state universities like SUNY Fredonia are constrained by the First Amendment of the U.S. Constitution. Professors at state universities enjoy certain First Amendment protections relative to their university employer, and state universities cannot discipline or sanction members of their faculty for constitutionally protected speech. In particular, the U.S. Supreme Court observed in *Connick v. Myers*, 461 U.S. 138, 140 (1983) that "a public employee does not relinquish rights to comment on matters of public interest by virtue of government employment."



There is no doubt that questions of sexuality and sexual morality are important ones. Academia should be a place where such questions can be boldly and honestly investigated. If a scholar's analysis is mistaken, then it should be rebutted or ignored. But the scholar should not be driven from campus for challenging widely held beliefs or for reaching the wrong or unpopular conclusions.

The university risks taking a course of action that encourages those who would silence controversial research and discourages scholars and teachers who must discuss controversial topics and sometimes go against popular opinion. The Academic Freedom Alliance supports Professor Kerschnar's right to hold and state his opinions and calls upon the university to live up to its contractual and constitutional requirements to protect Professor Kerschnar's ability to teach and research without interference. We call on the university to issue a public statement clearly reaffirming Professor Kerschnar's academic freedom.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Whittington".

Keith Whittington
Chair, Academic Committee, Academic Freedom Alliance
William Nelson Cromwell Professor of Politics, Princeton University

cc. Professor Stephen Kerschnar
David Starrett, Provost and Vice President for Academic Affairs
Frank Pagano, Chair, College Council
Seth Gilbertson, Associate Counsel for the State University of New York
Mary Beth Sievens, Chair, University Senate
Christopher Taverna, President, United University Professors Fredonia Chapter